



# Tribal Resources Study Plan

Moyie River Hydroelectric Project  
(FERC No. 1991)

February 17, 2025

Prepared by:



Prepared for:  
City of Bonners Ferry  
Bonners Ferry, Idaho

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## **List of Acronyms and Abbreviations**

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ACHP .....	Advisory Council on Historic Preservation
APE .....	area of potential effects
ARPA .....	Archaeological Resource Protection Act
CFR .....	Code of Federal Regulations
City .....	City of Bonners Ferry, Idaho
Commission .....	Federal Energy Regulatory Commission
FERC .....	Federal Energy Regulatory Commission
FLA .....	Final License Application
FOIA .....	Freedom of Information Act
FPA .....	Federal Power Act
HPMP .....	Historic Properties Management Plan
ITA .....	Indian Trust Asset
NAGPRA .....	Native American Graves Protection and Repatriation Act
NHPA .....	National Historic Preservation Act
NOI .....	Notice of Intent
NRHP .....	National Register of Historic Places
O&M .....	operation and maintenance
PA .....	Programmatic Agreement
PAD .....	Pre-Application Document
Project .....	Moyie River Hydroelectric Project
SHPO .....	State Historic Preservation Officer
Study .....	Tribal Resources Study
TCP .....	Traditional Cultural Property
TLP .....	Traditional Licensing Process
U.S.C. ....	United States Code
USFS .....	U.S. Forest Service

## **1.0 Introduction and Background**

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### **1.1 General Description of the Project**

The City of Bonners Ferry, Idaho (Bonners Ferry or City) is the licensee, owner, and operator of the Moyie River Hydroelectric Project (FERC No. 1991) (Project or Moyie River Project). The Project is located on the Moyie River in Boundary County, Idaho. The Project was licensed by the Federal Energy Regulatory Commission (FERC or Commission) on June 9, 1999 (with an effective date of June 1, 1999), and the license expires on May 31, 2029.

The Project is currently licensed by FERC under the authority granted by Congress through the Federal Power Act (FPA), 16 United States Code (U.S.C.) § 791(a), et seq., to license and oversee the construction and operation of non-federal hydroelectric projects on jurisdictional waters and/or federal lands. As described in the Pre-Application Document (PAD) and the associated Notice of Intent (NOI), filed with FERC on April 29, 2024, the City is pursuing a new license for the Project using FERC's Traditional Licensing Process (TLP), as defined in 18 Code of Federal Regulations (CFR) Part 5. On June 3, 2024, FERC approved the City's request to use the TLP. In accordance with FERC's regulations at 18 CFR § 16.9(b), the City must file an application for a new license for the Project on or before May 31, 2027.

At this time, the City is not proposing any modifications to the physical plant or dam, new facilities, or operational changes to the Project. While the City does not presently propose any new Project facilities or upgrades, the City will continually evaluate the potential for such improvements over the course of the relicensing. If the City intends to propose any new Project facilities or upgrades in the Final License Application (FLA) that would affect the scope of relicensing studies, the City will inform FERC and licensing stakeholders of this proposal at a time early enough in the pre-filing consultation process to ensure that the effects of any new facilities or upgrades are appropriately considered as part of the relicensing process.

### **1.2 Study Consultation**

The Kootenai Tribe of Idaho requested this Tribal Resources Study (Study) in consultation with the City on relicensing studies. The City consulted with the Kootenai Tribe of Idaho and the Idaho State Historic Preservation Officer (SHPO) in development of this Study Plan.

### **1.3 Study Goals and Objectives**

The primary goal of this Study is to assist FERC in meeting its compliance requirements under Section 106 of the National Historic Preservation Act (NHPA), as amended, by determining if relicensing the Project has the potential to have an adverse effect on historic properties. The objective of this Study is to identify Traditional Cultural Properties (TCPs), Indian Trust Assets (ITAs), and lands with associated tribal agreements for tribal traditional uses within the Study Area, evaluate their eligibility to the National Register of Historic Places (NRHP), if possible, at this inventory level of effort, and identify any potential Project-related effects on those properties determined eligible or potentially eligible (i.e., properties not yet evaluated for the NRHP). Those properties that are not evaluated regarding their eligibility for inclusion in the NRHP during the Study will be assumed and treated as eligible for inclusion in the NRHP.

Section 106 of the NHPA, as amended, and its implementing regulations at 36 CFR § 800, require lead federal agencies to consider the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on undertakings that will have an adverse effect on a historic property. In this case, the

undertaking is FERC's issuance of a new license for the Project. On June 3, 2024, FERC designated the City as FERC's non-federal representative for carrying out consultation pursuant to Section 106 of the NHPA for the relicensing effort. However, this Study does not include NHPA Section 106 informal consultation with Section 106 consulting parties<sup>1</sup>. Section 106 consultation will be conducted separately, outside of this Study. While the Study Report associated with this Study may identify potential avoidance, minimization or mitigation options, this Study does not include the development of potential requirements in the new license.

As it is not possible to determine all the effects of various Project activities that may occur over the course of a license, the City plans to develop a Historic Properties Management Plan (HPMP) in consultation with the Section 106 consulting parties that will be used to manage potential effects on historic properties throughout the term of any new license issued by FERC. FERC typically completes the Section 106 process for relicensings by entering into a Programmatic Agreement (PA) with the SHPO<sup>2</sup>, and the ACHP, if they choose to participate, that requires the licensee to develop and implement a HPMP. The City plans to incorporate the findings from this Study, along with other studies being completed for the relicensing, into a HPMP.

## 1.4 Project Nexus and Rationale

The City's continued operation and maintenance (O&M) of the Project under a new FERC license has the potential to affect tribal resources, if any such resources exist.

For the purposes of this Study, tribal resources include ITAs, TCPs, and agreements that may exist between Tribes and other entities to conduct traditional practices at a particular geographic location. Each of these has the potential to be a historic property<sup>3</sup>. This Study does not address other cultural resources, such as archaeological resources or historic built environment resources, which are addressed in the Cultural Resources Study Plan. Additionally, this Study does not address other resource types, such as water resources, aquatic wildlife, or other plants and animals that Tribes may also consider to be tribal resources but are outside of the purview of this Study. However, tribal cultural resources addressed by this Study as described above (ITAs, TCPs, and agreements) may include defining characteristics, such as culturally important plant resources or important sites that include archaeological resources. As such, tribal resources addressed by this Study are not necessarily mutually exclusive from other resource types.

ITAs are legal interests in property held in trust by the United States for Indian Tribes or individual Native Americans. The U.S. Secretary of the Interior, acting as the trustee, holds many assets in trust. ITAs can be real property, physical assets, or intangible property rights. Examples of ITAs are lands, including reservations and public domain allotments; mineral or water rights; hunting and fishing rights; other natural resources; money or claims. While most ITAs are on reservations, they may also be found off-reservation. A characteristic of an ITA is that it cannot be sold, leased, or otherwise alienated without the United States government's approval. ITAs do not include

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<sup>1</sup> Currently, in addition to the City itself, the City has identified the following as Section 106 consulting parties for the current relicensing efforts: Native American Tribes, the SHPO, FERC, and the U.S. Forest Service [USFS]. The USFS is the land manager for a portion of the lands within the FERC Project Boundary.

<sup>2</sup> Other Section 106 consulting parties may be invited to sign the PA as concurring parties, not signatories.

<sup>3</sup> "Historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria" (36 CFR § 800.16(l)(1)).

things in which a Tribe or individuals have no legal interest. For example, off-reservation sacred lands or archaeological sites in which a Tribe has no legal interest are not ITAs.

TCPs are explained and defined in Parker and King (1998:1) as follows:

*One kind of cultural significance a property may possess, and that make it eligible for inclusion in the [National] Register, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. Examples of properties possessing such significance include:*

- *a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;*
- *a rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents;*
- *an urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices;*
- *a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and*
- *a location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.*

*A traditional cultural property, then, can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.*

Agreements that are considered tribal resources consist of contracts between a Tribe and private landowner or land-managing agency that provide Tribes with access to a landowner or agency's property for fishing, gathering of traditional plants, or other tribal practices.

A list of Native American Tribes that may be potentially affected by the Project and may have tribal resources that could be affected by the Project is provided in Table 1.2-1, below. This list of potentially affected Native American Tribes is composed of those Native American Tribes identified and consulted for the previous Moyie River Hydroelectric Project relicensing efforts in 1995 and two additional Native American Tribes identified by FERC as potentially affected Indian Tribes for the present relicensing (the Confederated Tribes of the Warm Springs Reservation and the Shoshone-Paiute Tribes of the Duck Valley Reservation). The City will consult with these Native American Tribes for purposes of the present relicensing efforts, and any other interested Native American Tribes identified during the relicensing process.

**Table 1.2-1 Table of Potentially Affected Indian Tribes.<sup>4</sup>**

Indian Tribe
Coeur d'Alene Tribe
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Confederated Tribes of the Colville Reservation
Confederated Tribes of the Warm Springs Reservation
Kootenai Tribe of Idaho
Nez Perce Tribe
Shoshone-Paiute Tribes of the Duck Valley Reservation

To date, there has been a request from one Native American Tribe to conduct an ethnographic study (see Section 3.0).

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<sup>4</sup> In the PAD, the City identified the Kalispel Tribe of Indians as a potentially affected Tribe. This Tribe was consulted during the previous Moyie River Hydroelectric Project relicensing efforts in 1995. In a May 30, 2024, letter from the Kalispel Tribe of Indians to FERC, the Kalispel Tribe of Indians declined the invitation to consult on the relicensing as the undertaking is located outside the adjudicated lands of the Kalispel Tribe of Indians. FERC Accession #20240610-0004.

## **2.0 Study Area**

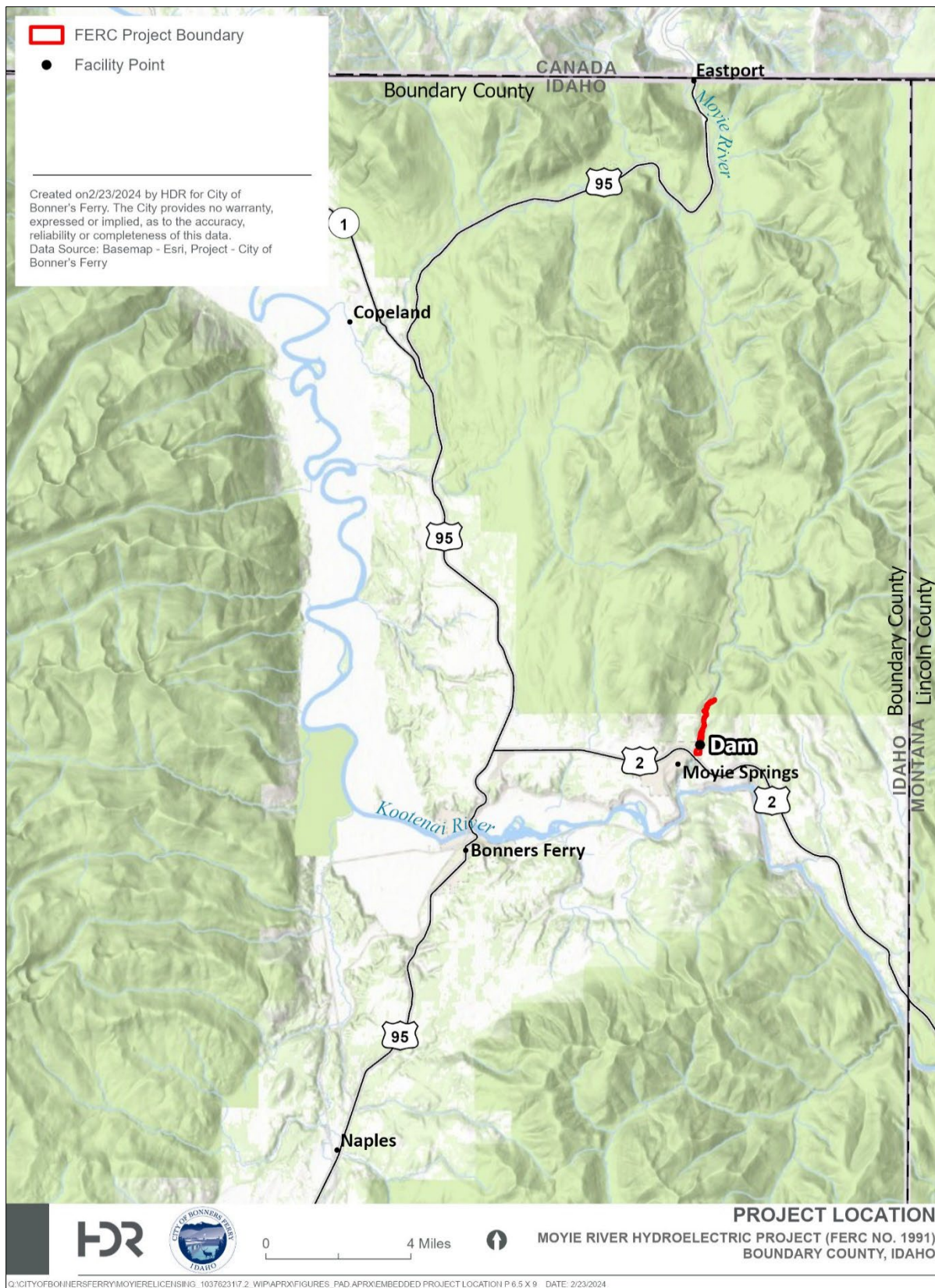
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Under the NHPA Section 106 implementing regulations at 36 CFR § 800.16(d), the area of potential effects (APE) is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist.” Based on this regulatory definition, the APE for the Project relicensing has been initially identified by the City as including all lands within the FERC Project Boundary. This is the area identified by the City where Project operations or Project-related activities may cause changes in the character or use of historic properties, if any such properties exist. Pursuant to 36 CFR § 800.4(a)(1), the City will consult with the Idaho SHPO regarding the determination of the APE prior to study implementation.

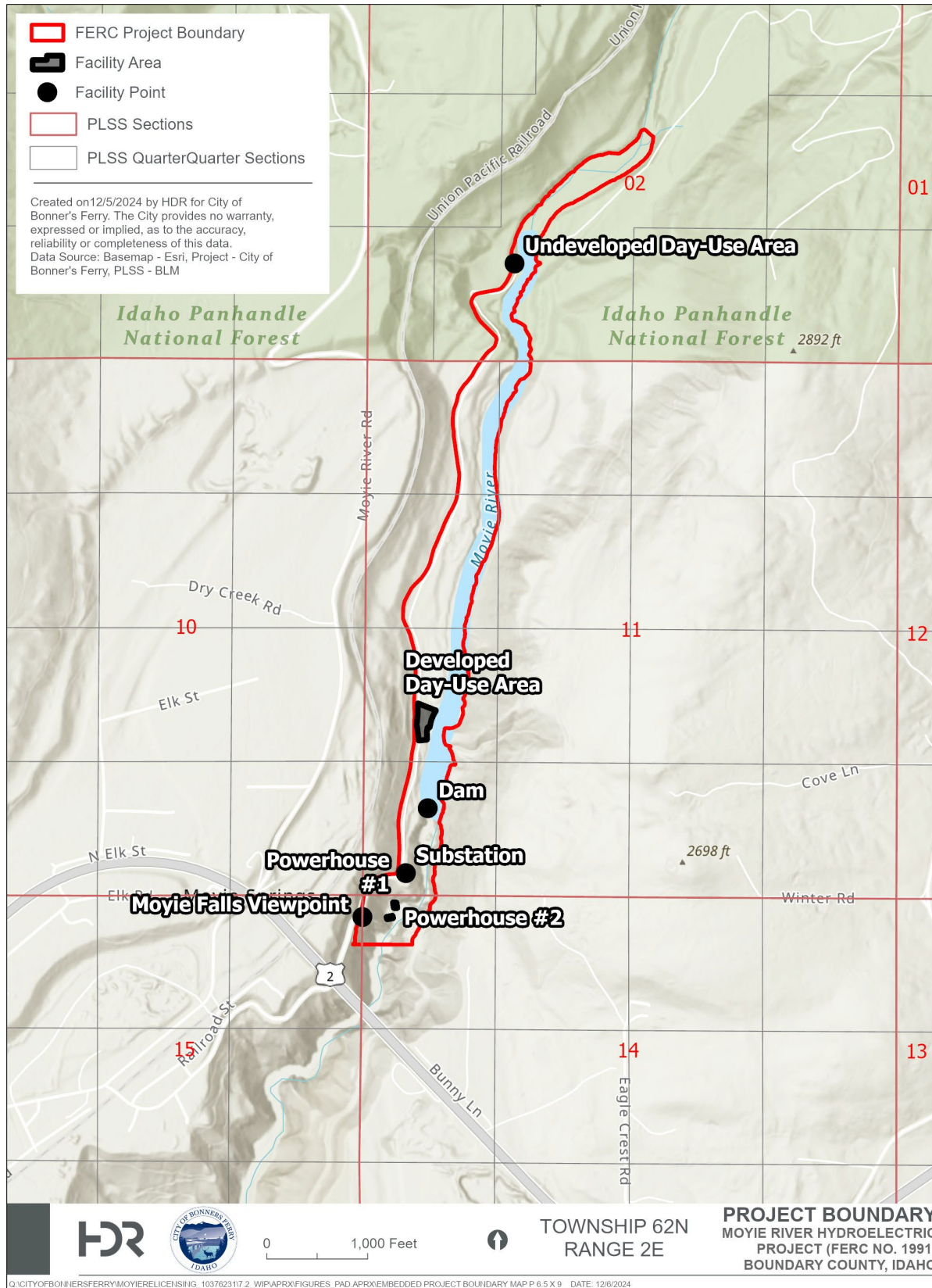
For this Study, the Study Area will be synonymous with the APE. The Study Area/APE/FERC Project Boundary is shown in Figures 2.0-1 through 2.0-2 below. These figures also depict the primary Project facilities.

If the City proposes modifications to the FERC Project Boundary or Project-related effects are identified outside of the Study Area, the Study Area (and subsequently the APE) will be expanded as necessary to include areas potentially affected by the addition.





**Figure 2.0-1. Project location.**



**Figure 2.0-2. FERC Project Boundary.**



### 3.0 Existing Information and Need for Additional Information

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As detailed in Section 5.10 of the City's PAD (City 2024), a review of previously identified cultural resources and the cultural context did not identify any Indian reservation lands, other lands under tribal ownership or sacred lands within the FERC Project Boundary (which is the same as the Study Area). Further, the City did not identify any documented ITAs or TCPs within this area, or any tribal agreements that pertain to lands within this area. Approximately 1 mile downstream of the Project are lands owned by the United States in trust for the benefit of the Kootenai Tribe of Idaho. The Kootenai Tribe of Idaho operates the Twin Rivers Canyon Resort and Twin Rivers Hatchery downstream of the Project near the confluence with the Moyie and Kootenai rivers.

Additionally, the Cultural Resources Management Plan prepared for the Project as part of previous relicensing efforts (Southworth et al. 2001:9) noted the following:

*No traditional cultural resources were identified within the MRHP [Moyie River Hydroelectric Project] area. During the public meeting held on March 7, 2000, at the City Council chambers, Raymond Abraham, Chief of the Kootenai Tribe of Idaho, stated that the nearest Kootenai Tribal activity to the MRHP was a camping and fishing area at the confluence of the Moyie and Kootenai Rivers located approximately a mile downstream of any project facilities. He indicated that they (the Kootenai Tribe) had not made significant use of the portion of the river occupied by the MRHP.*

However, based on a communication received from the Kootenai Tribe of Idaho via email on October 31, 2024, the area of the FERC Project Boundary is within the Kootenai Territory and is an area that is culturally significant to and has “been touched by, the Ktunaxa people.” The Kootenai Tribe of Idaho stated they support the need for an ethnographic study to document the Tribe’s interest in the area and to document the history of Tribal use in and around the Project area. Of note, in the email dated October 31, 2024, the Tribe also stated concern that any dredging in the Project reservoir could affect archaeological materials that have washed down the river from significant tribal sites upstream of the Project. As well, the Tribe is concerned that reservoir water level fluctuations could expose archaeological materials of tribal significance. The Tribe also asked that if interpretive signage is developed that they be given the opportunity to participate in the signage development process to ensure consideration of Ktunaxa<sup>5</sup> interests.

As described above, the Kootenai Tribe of Idaho has suggested that the Study Area may include significant tribal resources, and previous studies did not include ethnographic or tribal resources investigations. As such, it is important to perform these studies to determine whether unidentified tribal resources occur within the Study Area that are eligible, listed, or are assumed and treated as eligible for the NRHP and could be affected by the Project under the new FERC license.

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<sup>5</sup> Ktunaxa people traditionally occupied the lands adjacent to the Kootenay and Columbia rivers and the Arrow Lakes of British Columbia, Canada, with territory extending into parts of Alberta, Montana, Washington and Idaho.

## 4.0 Methodology and Reporting

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As described above, the objective of this Study is to identify TCPs, ITAs, or agreements within the Study Area that are historic properties or potential historic properties, and to assess whether continued Project O&M is affecting or has the potential to affect any such resources under the new FERC license when issued. In compliance with 36 CFR § 800.4(c)(1), the City acknowledges “that Indian Tribes and Native Hawaiian organizations possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them.” Likewise, the City acknowledges that the communities affiliated with historic properties with traditional cultural significance (i.e., TCPs) also have special expertise in assessing the NRHP eligibility of such properties. Accordingly, the City’s approach to this Study is to engage Native American Tribes and work with each group that wants to participate in this Study to develop the detailed activities and methods that will work for each individual group to accomplish the City’s goal and objective of the Study as described in Section 1.3 above. The City anticipates that participating groups may already have completed similar studies they wish the City to incorporate into this Study and/or would like to conduct their own investigation to identify TCPs, ITAs, or agreements. As such, the City foresees this Study as incorporating such information provided by participating Native American Tribes in formats deemed appropriate by each community. The specific study implementation activities identified below take into account this approach.

### 4.1 Specific Study Implementation Activities

**Step 1: Hire Ethnographer.** Select and hire one or more professionals that meet the ethnography qualifications included in National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King 1998) (herein after referred to as “ethnographer”), who will implement the Study. This will include soliciting input from Native American Tribes on who they recommend for this role, though the final selection and hiring will be decided and completed by the City.

**Step 2: Initial Tribal Outreach.** Ethnographer will conduct outreach to individual Native American Tribes to identify who would like to participate in the Study, how they would like to participate, to develop any confidentiality agreements/protocols with individual Native American Tribes, and to identify how data will be collected (e.g., by the participating Native American Tribe, by the ethnographer hired by the City, or other), transferred to the ethnographer, and used for this Study.

**Step 3: Data Gathering.** Ethnographer will work with the individual Native American Tribes participating in the Study to gather data they want to share and in the way they want to share it as identified in Step 2. This step may include archival research, interviews, field visits, and review and collection of previous study efforts conducted by others that was not already gathered during development of the PAD. The data gathered as part of the PAD will also be reviewed and incorporated as appropriate in consultation with the participating Native American Tribes.

**Step 4: Resource Identification and Evaluation.** Ethnographer will work with individual Native American Tribes to review gathered data, visit any properties in the field if necessary, and identify TCPs and other properties comprising ITAs or representing agreements as described in Section 1.0. In consultation with individual Native American Tribes, the ethnographer will apply the NRHP criteria of evaluation pursuant to 36 CFR § 60.4 to evaluate the eligibility of identified properties for inclusion in the NRHP, and/or consider and review previous NRHP evaluations conducted by others to determine if additional evaluation efforts are needed. The integrity of properties that meet the significance requirements under one or more of the NRHP criteria of evaluation will be

assessed pursuant to 36 CFR § 60.4 to confirm they still retain sufficient integrity in order to convey their significance<sup>6</sup>. It is possible that some identified properties may not have enough available information to complete NRHP eligibility evaluations; these properties will be assumed and treated as eligible for inclusion in the NRHP.

**Step 5: Consider Project-Related Effects to Identified Properties.** Ethnographer will work with individual Native American Tribes to identify ongoing Project-related effects or potential future effects to NRHP listed or eligible properties, and/or properties assumed and treated as eligible and identified during Steps 1-4. Ethnographer will document any treatment measures for these properties as recommended by individual Native American Tribes to be considered later for possible incorporation into the HPMP.

**Step 6: Reporting.** Ethnographer will draft one or more reports documenting the activities and the results of the activities conducted under Steps 1-5, along with the subsequent conclusions of the overall Study. The conclusions of the Study should identify TCPs, ITAs, and agreements regarding properties as described in Section 1.0 that were identified during the Study and those that have been evaluated as eligible or are already listed in the NRHP, or are assumed and treated as eligible, and are located within the Study Area. As specified in Step 5, the conclusions should also identify ongoing Project-related effects and potential future effects to such properties, and any potential treatment identified by individual Native American Tribes. The review and dissemination of this information, as outlined during Step 2 will be followed and reviewed during this step. It is expected that the report(s) will include multiple components with varying protocols for access and availability to Section 106 consulting parties. It is however, expected that at least a summary report summarizing efforts and conclusions of this Study will be provided to Native American Tribes and USFS for review, and subsequently submitted to SHPO for review and concurrence on any NRHP eligibility evaluations, and then filed with FERC in its privileged (i.e., confidential) files.

Reports prepared for this Study will be consistent with SHPO guidance and include the following sections: 1) Project Description, 2) Study Goals and Objectives, 3) Environmental Setting and Cultural and Historical Context, 4) Pre-Field Research, 5) Consultation Summary, 6) Methods and Results, 7) Management Recommendations and Conclusions, and 8) Description of Variances from this Study Plan. Reports will also include, as appropriate:

- Maps that clearly depict the following on U.S. Geological Survey 1:24,000 topographic maps:
  - The FERC Project Boundary; and
  - Resource locations.
- Consultation correspondence related to the Study.
- Resume for the ethnographer.

The results of this Study are likely to include culturally sensitive information that is exempt from public release<sup>7</sup>. The City will protect the culturally sensitive information from public view by

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<sup>6</sup> Integrity of historic properties is described in National Register Bulletin 15, *How to Apply the National Register Criteria for Evaluation* (Andrus 1995), and National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King 1998).

<sup>7</sup> Federal laws exempt certain types of cultural resources information from public disclosure (e.g., 54 U.S.C. Section 307103(a) of the NHPA, Section 9(a) of the Archaeological Resource Protection Act [ARPA], exclusions permitted by the Freedom of Information Act [FOIA], and the Native American Graves Protection and Repatriation Act [NAGPRA]).

designating it as privileged and only distributing it to those consulting parties allowed access to privileged information (i.e., Tribes, SHPO, FERC, and USFS cultural resources representatives). It is expected that the portions of the Study Report that include privileged information will only be shared as described here and will be filed in FERC's privileged files. The Study Report will be distributed to interested Tribes, USFS, and the SHPO for review and comment as part of the NHPA Section 106 consultation process that will be conducted by the City outside of this Study. The City will work with individual Native American Tribes regarding any confidentiality concerns and may withhold information from the Study Report that are deemed too sensitive to share, even with only the small number of parties identified here (i.e., Tribes, SHPO, FERC, and USFS cultural resources representatives).

## **5.0 Schedule**

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This Study will begin in 2025, with any necessary field visits to be conducted during the 2025 field season. A progress report will be provided on or before January 31, 2026, discussing non-confidential initial findings of the Study to date. A confidential draft report will be provided to appropriate consulting parties, as described above, once complete, no later than January 1, 2027.

The City will work with participating Native American Tribes to coordinate Study work around individual Native American Tribes' internal schedules and existing processes. For instance, there may be times of the year when a participating Native American Tribe cannot conduct sensitive work such as this Study effort for cultural reasons. As well, Native American Tribes often have internal approval and review processes that involve the Tribal Council which may only meet once a month, limiting the speed with which efforts, such as this Study effort can be completed. The City believes that the above schedule, which provides 2 years for Study completion should allow sufficient time to complete this Study while still considering individual Native American Tribes' internal schedules and existing processes.

## 6.0 References

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- Andrus, Patrick W. 1995. *How to Apply the National Register Criteria for Evaluation*. National Register Bulletin 15. Edited by Rebecca H. Shrimpton. USDOI, National Park Service, Washington, D.C.
- City of Bonners Ferry, Idaho (City). 2024. Pre-Application Document for the Moyie River Hydroelectric Project, FERC Project No. 1991. April 2024.
- Parker, Patricia L., and Thomas F. King. 1998. Guidelines for Evaluating and Documenting Traditional Cultural Properties. Revised. National Register Bulletin 38. U.S. Department of the Interior, National Park Service, National Register, History, and Education Division, Washington, D.C. Acronyms.
- Southworth, Don, Michael K. Polk, and Sanieel Sayers. 2001. Cultural Resource Management Plan, Moyie River Hydroelectric Project (FERC No. 1991). Prepared by Sagebrush Consultants, L.L.C. Prepared for City of Bonners Ferry, Idaho.